



ILLINOIS COMMERCE COMMISSION

September 30, 2004

County of LaSalle, Illinois, Department of Highways and City of Streator,
Illinois,
Petitioners,

Vs.

Burlington Northern and Santa Fe Railway Company and State of Illinois,
Department of Transportation,
Respondents.

T04-0069

Petition for an Order of the Illinois Commerce Commission authorizing the replacement of the structure where E. Broadway Street goes over the tracks of the Burlington Northern Santa Fe Railway Company and the SB Warehousing, Inc. in Streator, LaSalle County, Illinois, apportioning costs thereof and directing an appropriate portion thereof to be borne by the Grade Crossing Protection Fund.

Mr. Lawrence J. Kinzer
LaSalle County Highway Department
P.O. Box 128
1400 North 27th Road
Ottawa, IL 61350

Dear Mr. Kinzer:

Receipt is acknowledged of the original and three (3) copies of the Petition filed September 30, 2004 in the above matter.

All future correspondence/pleadings should be filed with an original and two (2) copies and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce Commission, 527 E. Capitol Avenue, Springfield, IL 62701 or you may file electronically through E-Docket if you have an account. To apply for an account, please log on to www.icc.state.il.us and apply for an E-docket account.

Processing and Information Section

kl

cc: Mr. Victor A. Modeer, IDOT
Mr. W. Douglas Werner, BNSF
Ms. Cheryl Townlian, BNSF
CT Corporation System, BNSF
City of Streator, Mayor/Clerk

COPY

PETITION
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

RECEIVED
SEP 30 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

COUNTY OF LASALLE, ILLINOIS
DEPARTMENT OF HIGHWAYS
and
CITY OF STREATOR, ILLINOIS
Petitioners

vs.

BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY

and

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

Respondents

No. T04-0069

Petition for an Order of the Illinois Commerce Commission authorizing the replacement of the structure where E. Broadway Street goes over the tracks of the Burlington Northern Santa Fe Railway Company and the SB Warehousing, Inc. in Streator, LaSalle County, Illinois, apportioning costs thereof and directing an appropriate portion thereof to be borne by the Grade Crossing Protection Fund.

PETITION

To the ILLINOIS COMMERCE COMMISSION:

DOCKETED

Now comes the Petitioners, the County of LaSalle and the City of Streator, Illinois by Mr. Troy Holland, Assistant LaSalle County State's Attorney, and respectfully petitions the Honorable Commission as follows:

1. That petitioners have jurisdiction under the laws of the State of Illinois, being the Illinois Highway Code, over East Broadway Street, a part of the City of Streator street and highway system, which carries local traffic across the Burlington Northern Santa Fe Railway Company tracks in a generally east/west direction between Illinois Route 23 and Otter Creek Road (E.18th Road).
2. That East Broadway Street, maintained by one of the Petitioners, that being the City of Streator, is to be improved by reconstructing East Broadway Street between Shabbona Street and Iowa Street including the removal of the existing overpassing structure and its replacement with another overpassing of vehicular traffic structure at the Burlington Northern Santa Fe Railway Company.
3. That said improvements are vitally needed by the City Street and Highway System to accommodate the existing and the anticipated continued growth of traffic in this section of the City of Streator, Illinois.
4. That the existing railroad traffic at this crossing is of high volume, comprised of freight trains, traveling at both slow and high speeds.
5. That some portions of the proposed overpassing structure are of direct benefit to the Burlington Northern Santa Fe Railway Company, such as increased vertical clearance over State of Illinois required vertical

clearance, special crash walls to protect proposed piers outside a horizontal clearance as required by the State of Illinois, special pedestrian railing on one side of the proposed structure, and special bridge deck drainage system so as not to drain storm water onto Burlington Northern Santa Fe Railway Company property.

6. Petitioner proposes, therefore, to construct a grade separation involving a roadway bridge over the Burlington Northern Santa Fe Railway Company and the SB Warehousing, Inc. railroad tracks to provide for the public health, safety, welfare and convenience in the manner and upon the terms as shown on the consulting engineer's prints marked Exhibit 1 attached hereto and made a part hereof.
7. Petitioner also attached Exhibit 2 hereto and makes a part thereof a copy of the LaSalle County Resolution No. 02-148 adopted September 9, 2002, and the City of Streator Resolution No. 2002/03-48 adopted August 20, 2002 authorizing Preliminary Engineering Services Agreement for undertaking the study of the proposed grade separation crossing.

WHEREFORE, Petitioner prays that the Honorable Commission will set the aforesaid matter for hearing with notice to the Parties hereto, and after such hearing enter an Order, pursuant to 625 ILCS 5/18c-7401(3), the "Illinois Commercial Transportation Law", regarding a separation of grades by construction of the subject bridge crossing, directing an appropriate portion thereof to be borne for the benefit of the statewide traveling public by the Grade Crossing Protection Fund and directing disbursements in relation thereto, all as

may be necessary to preserve, promote and protect the safety and convenience of the public in the premises herein described.

The Petitioner further specially requests that all necessary steps be taken by the Honorable Commission to expedite, accelerate and advance upon its docket for immediate consideration, the matter of this Petition.

Respectfully submitted,
THE COUNTY OF LASALLE, ILLINOIS
AND
THE CITY OF STREATOR, ILLINOIS

EXHIBIT 2



Illinois Department of Transportation

Division of Highways / District 3
700 East Norris Drive / Ottawa, Illinois / 61350-0697
Telephone 815/434-6131

DISTRIBUTION			
LaSalle County Highway Dept.			
	ADMIN.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	BRIDGE	<input type="checkbox"/>	<input type="checkbox"/>
	DESIGN	<input type="checkbox"/>	<input type="checkbox"/>
	CONST.	<input type="checkbox"/>	<input type="checkbox"/>
	MAINT.	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Eng'r. Sec.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Gen. Office	<input type="checkbox"/>	<input type="checkbox"/>
	BOOKKEEPING	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

February 7, 2003

Ms. Mary Jane Wilkinson
LaSalle County Clerk
707 Etna Road, P.O. Box 430
Ottawa, IL 61350

Major Bridge Program
LaSalle County
City of Streator
Section 01-00590-00-BR (County)
Section 00-00076-00-BR (City)
Engineering Agreement

Dear Ms. Wilkinson:

The agreement dated September 9, 2002 between LaSalle County and Hutchison Engineering, Inc. for engineering services to be performed in connection with this section was received by the department today.

The costs for engineering services based on the rates established by this agreement will be permitted for Motor Fuel Tax expenditures.

The county's file copy of the agreement is being returned to your County Engineer.

Sincerely,

Diane O'Keefe
District Engineer


By: James R. Threadgill III
District Local Roads & Streets Engineer

cc: Darrell W. Lewis (Acting)
Hutchison Engineering, Inc.
Lawrence J. Kinzer, LaSalle County Engineer
Michael E. Stead, ICC
Debra Baxter, MFT Auditor

CR:bb/StreatorCountyCityEngAgrmt

02- 21

WE, the undersigned members of the BRIDGE AND TOWNSHIP ROADS COMMITTEE, do hereby recommend to the County Board for approval, the attached resolution for AUTHORIZING APPROVAL OF A PROFESSIONAL SERVICE AGREEMENT FOR ENGINEERING WITH HUTCHISON ENGINEERING, INC. FOR SECTION 01-00590-00-BR ON BROADWAY STREET OVER THE BNSF RAILROAD IN THE CITY OF STREATOR.

Daniel Flanagan
Chairman

James Appeltin

Maure Serango

Wm. E. McFarlin

Long Small

8-28-02
Date

- RESOLUTION -
(#02-148)

WHEREAS, the City of Streator petitioned LaSalle County for aid for the replacement of Structure No. 050-8016, Broadway Street over the BNSF Railroad in Streator, and

WHEREAS, the County Board of LaSalle County did grant the prayer of said petition and did appropriate funds to pay the cost of preliminary engineering services via County Highway Resolution 01-05, and

WHEREAS, engineering proposals were requested, interviews were conducted and Hutchison Engineering, Inc. was selected as the prime candidate for said engineering work, and

WHEREAS, Hutchison Engineering, Inc. has submitted the attached Agreement for engineering services in accordance with the approved scope and estimates and said agreement is in accordance with the requirements of the County and the Illinois Department of Transportation, and

WHEREAS, the City of Streator has by resolution attached concurred with the provisions of said agreement and has resolved to budget and appropriate funds as determined to be necessary by LaSalle County to cover the City of Streator's share of the cost of said engineering services.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the County Board of LaSalle County, to enter into an agreement for engineering services with Hutchison Engineering, Inc., 339 West Jefferson Street, Joliet, Illinois, for the replacement of Structure No. 050-8016, Broadway Street over the BNSF Railroad in Streator, Section 01-00590-00-BR, LaSalle County, and

BE IT FURTHER RESOLVED, that the compensation for the engineering services be according to the actual costs subject to an upper limit of \$689,713.00 in accordance with the provisions of the attached Agreement, and

BE IT FURTHER RESOLVED that the Chairman of the County Board of LaSalle County is authorized to enter into the attached Agreement with Hutchison Engineering, Inc.

STATE OF ILLINOIS }
 }SS
COUNTY OF LASALLE }

I, Mary Jane Wilkinson, County Clerk in and for said County, in the State aforesaid, and keeper of the records and files thereof, as provided by statute, do hereby certify the foregoing to be a true, perfect and complete copy of a resolution adopted by the Board of LaSalle County, at its County Board meeting in Ottawa, Illinois, on September 9th, 2002.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County at my office in Ottawa, Illinois, in said County, this 9th day of September A.D., 2002.


County Clerk

RESOLUTION 2002/03-28

CONCURRING WITH A PROPOSED AGREEMENT FOR PROFESSIONAL
ENGINEERING SERVICES ASSOCIATED WITH REPLACEMENT OF STRUCTURE
NUMBER 050-8016 (BROADWAY VIADUCT) AND AGREEMENT TO SHARE THE
COST OF SAID ENGINEERING SERVICES WITH LASALLE COUNTY

WHEREAS the City of Streator, in order to insure the safety of the motoring public and provide free flow of traffic, is desirous of participating with LaSalle County for replacement of Structure Number 050-8016, locally known as the Broadway Viaduct carrying Broadway Street over the Burlington Northern Santa Fe Railroad, and

WHEREAS the City of Streator has reviewed and concurs with the Cost Estimate of Consultant Services for the improvement of Structure Number 050-8016 and

WHEREAS the City of Streator has reviewed and concurs with the proposed Preliminary / Construction Engineering Services Agreement with Hutchinson Engineering, Inc., 339 West Jefferson Street, Joliet, Illinois, and

WHEREAS the Illinois Commerce Commission has not programmed monies for preliminary engineering services and

WHEREAS the City of Streator and LaSalle County are desirous of proceeding with the execution of an agreement with Hutchinson Engineering, Inc., so that preliminary engineering services may commence as soon as possible and

WHEREAS it will therefore be necessary for LaSalle County and the City of Streator to jointly share the cost of said engineering services until such time that the Illinois Commerce Commission programs and releases monies for engineering services

NOW THEREFORE be it resolved by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois as follows:

That the City of Streator acting by and through its Mayor and City Council does hereby agree to budget and appropriate General Revenue and/or Motor Fuel Tax funds as determined to be necessary by LaSalle County to cover the City of Streator's share of the cost for Preliminary Engineering and Construction Engineering Services for the replacement of Structure Number 050-8016.


Passed by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on 20th day of August 2002 and approved by me as Mayor on the same day.

APPROVED


Ray Schmitt, Mayor

ATTEST


Pamela K. Leonard, City Clerk

Municipality	LOCAL A G E N C Y	 Illinois Department of Transportation Preliminary/Construction Engineering Services Agreement For Motor Fuel Tax Funds	CONSULTANT	Name <i>Hutchison Engineering, Inc.</i>
Township				Address <i>339 West Jefferson Street</i>
County <i>LaSalle</i>				City <i>Joliet</i>
Section <i>01-00590-00-BR</i>				State <i>IL</i>

THIS AGREEMENT is made and entered into this 9th day of September, 2002 between the above Local Agency (LA) and Consultant (ENGINEER) and covers certain professional engineering services in connection with the improvement of the above SECTION. Motor Fuel Tax Funds, allotted to the LA by the State of Illinois under the general supervision of the State Department of Transportation, hereinafter called the "DEPARTMENT", will be used entirely or in part to finance ENGINEERING services as described under AGREEMENT PROVISIONS.

Section Description

Name Broadway Street over the BNSF Railroad in City of Streator, Illinois

Route Broadway Street Length 0.40 Mi. 2,100 FT (Structure No. 050-8016)

Termini Intersection of West Everett St. to East Colorado St.

Description:

This improvement will consist of all required environmental documents, preliminary studies, field surveys, intersection studies, contract plans and construction observation for the improvement of Broadway Street over the BNSF Railroad including all approach roadway, drainage and other related work.

Agreement Provisions

The Engineer Agrees,

1. To perform or be responsible for the performance of the following engineering services for the LA, in connection with the proposed improvements herein before described, and checked below:
 - a. ☒ Make such detailed surveys as are necessary for the preparation of detailed roadway plans
 - b. ☐ Make stream and flood plain hydraulic surveys and gather high water data, and flood histories for the preparation of detailed bridge plans.
 - c. ☒ Make or cause to be made such soil surveys or subsurface investigations including borings and soil profiles and analyses thereof as may be required to furnish sufficient data for the design of the proposed improvement. Such investigations are to be made in accordance with the current requirements of the DEPARTMENT.
 - d. ☒ Make or cause to be made such traffic studies and counts and special intersection studies as may be required to furnish sufficient data for the design of the proposed improvement.
 - e. ☒ Prepare Army Corps of Engineers Permit, Department of Natural Resources-Office of Water Resources Permit, Bridge waterway sketch, and/or Channel Change sketch, Utility plan and locations, and Railroad Crossing work agreements.
 - f. ☐ Prepare Preliminary Bridge design and Hydraulic Report, (including economic analysis of bridge or culvert types) and high water effects on roadway overflows and bridge approaches.
 - g. ☒ Make complete general and detailed plans, special provisions, proposals and estimates of cost and furnish the LA with five (5) copies of the plans, special provisions, proposals and estimates. Additional copies of any or all documents, if required, shall be furnished to the LA by the ENGINEER at his actual cost for reproduction.

Note: Four copies to be submitted to District Engineer

- h. ☒ Furnish the LA with survey and drafts in quadruplicate of all necessary right-of-way dedications, construction easement and borrow pit and channel change agreements including prints of the corresponding plats and staking as required. *Locate or re-establish land corners as required.*
- i. ☐ Assist the LA in the tabulation and interpretation of the contractors' proposals
- j. ☒ Prepare the necessary environmental documents in accordance with the procedures adopted by the DEPARTMENT's Bureau of Local Roads & Streets.
- k. ☒ Prepare the Project Development Report when required by the DEPARTMENT.
- l. ☒ *Checking of shop drawings as may be required.*
- m. ☒ *Furnish or cause to be furnished*

(1) *A resident engineer, inspectors and other technical personnel to perform the following work: (The number of such inspectors and other technical personnel required shall be subject to the approval of the LA.)*

- a. *Continuous observation of the work and the contractor's operations for compliance with the plans and Specifications as construction proceeds, but the ENGINEER does not guarantee the performance of the contract by the contractor.*
- b. *Establishment and setting of lines and grades.*
- c. *Maintain a daily record of the contractor's activities throughout construction including sufficient information to permit verification of the nature and cost of changes in plans and authorized extra work.*
- d. *Supervision of inspectors, proportioning engineers and other technical personnel and the taking and submitting of material samples.*
- e. *Revision of contract drawings to reflect as built conditions.*
- f. *Preparation and submission to the LA in the required form and number of copies, all partial and final payment estimates, change orders, records and reports required by the LA and the DEPARTMENT.*

- (2) That all reports, plans, plats and special provisions to be furnished by the ENGINEER pursuant to the AGREEMENT, will be in accordance with current standard specifications and policies of the DEPARTMENT. It is being understood that all such reports, plats, plans and drafts shall, before being finally accepted, be subject to approval by the LA and the DEPARTMENT.
- (3) To attend conferences at any reasonable time when requested to do so by representatives of the LA or the Department.
- (4) In the event plans or surveys are found to be in error during construction of the SECTION and revisions of the plans or survey corrections are necessary, the ENGINEER agrees that he will perform such work without expense to the LA, even though final payment has been received by him. He shall give immediate attention to these changes so there will be a minimum delay to the Contractor.
- (5) That basic survey notes and sketches, charts, computations and other data prepared or obtained by the Engineer pursuant to this AGREEMENT will be made available, upon request, to the LA or the DEPARTMENT without cost and without restriction or limitations as to their use.
- (6) That all plans and other documents furnished by the ENGINEER pursuant to this AGREEMENT will be endorsed by him and will show his professional seal where such is required by law.

The LA Agrees,

- 1. ~~To pay the ENGINEER as compensation for all services performed as stipulated in paragraphs 1a, 1g, 1i, 2, 3, 5 and 6 in accordance with one of the following methods indicated by a check mark:~~
 - ~~a. ☐ A sum of money equal to _____ percent of the awarded contract cost of the proposed improvement as approved by the DEPARTMENT.~~
 - ~~b. ☐ A sum of money equal to the percent of the awarded contract cost for the proposed improvement as approved by the DEPARTMENT based on the following schedule:~~

Schedule for Percentages Based on Awarded Contract Cost

Awarded Cost	Percentage Fees	(see note)
Under \$50,000		%
		%
		%
		%
		%
		%

Note: Not necessarily a percentage. Could use per diem, cost-plus or lump sum.

2. To pay for services stipulated in paragraphs 1a, 4b, 1c, 1d, 1e, 1f, 1g, 1h, 1j, & 1k, 1l, 1m, 2, 3, 5 & 6 of the ENGINEER AGREES at actual cost of performing such work plus 125 percent to cover profit, overhead and readiness to Serve - "actual cost" being defined as payrolls, insurance, social security and retirement deductions with a limiting amount of \$689,713.00 excluding Construction Engineering. This amount will not be exceeded without written approval of LaSalle County. CADD time will be billed at the ENGINEER's current rate per hour. Traveling and other out-of-pocket expenses will be reimbursed to the ENGINEER at his actual cost. Subject to the approval of the LA, the ENGINEER may sublet all or part of the services provided under the paragraph 1a, 4b, 1c, 1d, 1e, 1f, 1g, 1h, 1j, & 1k, 1l, 1m, 2, 3, 5 & 6. If the ENGINEER sublets all or part of this work, the LA will pay the cost to the ENGINEER plus a five (5) percent service charge. A supplemental agreement will be prepared for Construction Engineering after completion of the Preliminary Engineering Phases of the project.

"Cost to Engineer" to be verified by furnishing the LA and the DEPARTMENT copies of invoices from the party doing the work. The classifications of the employees used in the work should be consistent with the employee classifications for the services performed. If the personnel of the firm, including the Principal Engineer, perform routine services that should normally be performed by lesser-salaried personnel, the wage rate billed for such services shall be commensurate with the work performed.

3. That payments due the ENGINEER for services rendered in accordance with this AGREEMENT will be made as soon as practicable after the services have been performed. in accordance with the following schedule:

a. Upon completion of detailed plans, special provisions, proposals and estimate of cost being the work required by paragraphs 1a through 1g under THE ENGINEER AGREES to the satisfaction of the LA and their approval by the DEPARTMENT, 90 percent of the total fee due under this AGREEMENT based on the approved estimate of cost.

b. Upon award of the contract for the improvement by the LA and its approval by the DEPARTMENT, 100 percent of the total fee due under the AGREEMENT based on the awarded contract cost, less any amounts paid under "a" above.

By Mutual agreement, partial payments, not to exceed 90 percent of the amount earned, may be made from time to time as the work progresses.

4. That, should the improvement be abandoned at any time after the ENGINEER has performed any part of the services provided for in paragraphs 1a, through 1h and prior to the completion of such services, the LA shall reimburse the ENGINEER for his actual costs plus 150 percent incurred up to the time he is notified in writing of such abandonment - "actual cost" being defined as in paragraph 2 of THE LA AGREES.
5. That, should the LA require changes in any of the detailed plans, specifications or estimates except for those required pursuant to paragraph 4 of THE ENGINEER AGREES, after they have been approved by the DEPARTMENT, the LA will pay the ENGINEER for such changes on the basis of actual cost plus 125 percent to cover profit, overhead and readiness to serve - "actual cost" being defined as in paragraph 2 of THE LA AGREES. It is understood that "changes" as used in this paragraph shall in no way relieve the ENGINEER of his responsibility to prepare a complete and adequate set of plans and specifications.

It is Mutually Agreed,

1. That any difference between the ENGINEER and the LA concerning their interpretation of the provisions of this Agreement shall be referred to a committee of disinterested parties consisting of one member appointed by the ENGINEER, one member appointed by the LA and a third member appointed by the two other members for disposition and that the committee's decision shall be final.
2. This AGREEMENT may be terminated by the LA upon giving notice in writing to the ENGINEER at his last known post office address. Upon such termination, the ENGINEER shall cause to be delivered to the LA all surveys, permits, agreements, preliminary bridge design & hydraulic report, drawings, specifications, partial and completed estimates and data, if any from traffic studies and soil survey and subsurface investigations with the understanding that all such material becomes the property of the LA. The ENGINEER shall be paid for any services completed and any services partially completed in accordance with Section 4 of THE LA AGREES.
3. That if the contract for construction has not been awarded one year after the acceptance of the plans by the LA and their approval by the DEPARTMENT, the LA will pay the ENGINEER the balance of the engineering fee due to make 100 percent of the total fees due under this AGREEMENT, based on the estimate of cost as prepared by the ENGINEER and approved by the LA and the DEPARTMENT.
4. That the ENGINEER warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER, to solicit or secure this contract, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this contract. For Breach or violation of this warranty the LA shall have the right to annul this contract without liability.

IN WITNESS WHEREOF, the parties have caused the AGREEMENT to be executed in quadruplicate counterparts, each of which shall be considered as an original by their duly authorized officers.

Executed by the LA:

ATTEST:	_____ of the (Municipality/Township/County)
By <u>Mary Jane Wilkinson</u>	State of Illinois, acting by and through its
<u>LaSalle County</u>	<u>County Board</u>
(Seal) Clerk	By <u>Joseph E. Hittel</u>
	Title <u>City Bd. Chm</u>

Executed by the ENGINEER:

ATTEST:	<u>Hutchison Engineering, Inc.</u>
By <u>D. Wright</u>	<u>339 West Jefferson Street</u>
Title <u>Assistant Secretary</u>	<u>Joliet, Illinois 60435</u>
	By <u>Ray L. Hutter</u>
	Title <u>President</u>

EXHIBIT 1